IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BENEFICIAL INNOVATIONS, INC., *Plaintiff*, v. BLOCKDOT, INC., CAREERBUILDER, LLC., CNET NETWORKS, INC., DIGG, INC., EBAUM'S WORLD, INC., JABEZ NETWORKS, INC., THE NEW YORK TIMES CO., WASHINGTONPOST.NEWSWEEK INTERACTIVE COMPANY, LLC, THE WEATHER CHANNEL INTERACTIVE, INC. *Defendants*.	)	CASE No. 2:07-cv-263

ANSWER AND COUNTERCLAIMS OF THE NEW YORK TIMES COMPANY
TO THE SECOND AMENDED COMPLAINT OF BENEFICIAL INNOVATIONS, INC.

In response to Plaintiff's Second Amended Complaint (the "Complaint"), Defendant and Counterclaim-Plaintiff The New York Times Company (the "Times") submits this Answer and Counterclaims as follows:

Introduction

1. Plaintiff Beneficial Innovations, inc. ("Beneficial Innovations") owns the inventions described and claimed in United States Patent Nos. 6,712,702 entitled "Method and System for Playing Games on a Network" (the "'702 Patent") and 6,183,366 entitled "Network Gaming System" (the "'366 Patent") (collectively "the Patents). Defendants (a) have used and

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continue to use Plaintiff's patented technology in products that they make, use, import, sell, and offer to sell, and (b) have contributed to or induced, and continue to contribute to or induce, others to infringe the Patents. Beneficial Innovations seeks damages for patent infringement and an injunction preventing Defendants from making, using, selling or offering to sell, and from contributing to and inducing others to make, use, sell, or offer to sell, the technology claimed by the Patents without Plaintiff's permission.

Answer: The Times: (a) admits that Beneficial Innovations seeks damages for patent infringement and an injunction preventing Defendants from making, using, selling or offering to sell, and from contributing to and inducing others to make, use, sell, or offer to sell, the technology claimed by the Patents; (b) denies the allegations of Paragraph 1 of the Complaint with respect to its own activities; and (c) is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations of Paragraph 1 and therefore denies those allegations.

Jurisdiction and Venue

2. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271 and 281, *et seq.* The Court has original jurisdiction over this patent infringement action under 28 U.S.C. § 1338(a).

Answer: Admitted.

3. Each of the Defendants has committed acts and continues to commit acts within this judicial district giving rise to this action. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and § 1400.

Answer: The Times (a) denies that it has committed acts and continues to commit acts within this judicial district giving rise to this action, (b) is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 with respect to the other Defendants and therefore denies those allegations, (c) denies that venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and § 1400, and avers that this judicial district is not the most appropriate venue for this lawsuit.

Plaintiff Beneficial Innovations

4. Plaintiff Beneficial Innovations is a corporation existing under and by virtue of the laws of the State of Nevada.

Answer: The Times is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 of the Complaint and therefore denies those allegations.

Defendants

5. Defendant Blockdot, Inc. is a corporation organized and existing under the laws of the State of Texas, with its principal place of business in Dallas, Texas.

Answer: The Times is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5 of the Complaint and therefore denies those allegations.

6. Defendant Careerbuilder, LLC is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Chicago, Illinois.

Answer: The Times is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 of the Complaint and therefore denies those allegations.

7. Defendant CNET Networks, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in San Francisco, California.

Answer: The Times is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 7 of the Complaint and therefore denies those allegations.

8. Defendant Digg, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in San Francisco, California.

Answer: The Times is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 8 of the Complaint and therefore denies those allegations.

9. Defendants Ebaum's World, Inc. is a corporation organized and existing under the laws of the State of New York, with its principal place of business in Rochester, New York.

Answer: The Times is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 9 of the Complaint and therefore denies those allegations.

10. Defendant Jabez Networks, Inc. is a corporation organized and existing under the laws of the State of Tennessee, with its principal place of business in Brentwood.

Answer: The Times is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 10 of the Complaint and therefore denies those allegations.

11. Defendant The New York Times Company is a corporation organized and existing

under the laws of the State of New York, with its principal place of business in New York, New York.

Answer: Admitted.

12. Defendant Washingtonpost.Newsweek Interactive Company, LLC is a corporation organized and existing under the laws of the State of Delaware.

Answer: The Times is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 12 of the Complaint and therefore denies those allegations.

13. Defendant The Weather Channel Interactive, Inc. is a corporation organized and existing under the laws of the State of Georgia, with its principal place of business in Atlanta, Georgia.

Answer: The Times is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 13 of the Complaint and therefore denies those allegations.

First Claim for Patent Infringement (infringement of the '702 patent)

14. Plaintiff incorporates by reference each of the allegations in paragraphs 1-13 above and further alleges as follows:

Answer: The Times incorporates by reference each of the answers above and further answers as follows:

15. The United States Patent and Trademark Office issued the '702 patent on March 30, 2004. Attached as Exhibit A is what is believed to be a copy of the text of the '702 patent.

Through assignment, Plaintiff is the owner of all right, title, and interest in the ‘702 patent, including all rights to pursue and collect damages for past infringements of the patent.

Answer: The Times admits that the United States Patent and Trademark Office issued the ‘702 patent on March 30, 2004 and that what purports to be a copy of the text of the ‘702 patent is attached to the Complaint as Exhibit A. The Times is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations of Paragraph 15 of the Complaint and therefore denies those allegations.

16. Defendants Blockdot, Inc. Careerbuilder, LLC, CNET Networks, Inc., Digg, Inc., Ebaum’s World, Inc. Jabez Networks, Inc., The New York Times Company, The Washington Post Company, and the Weather Channel Interactive have infringed, contributed to the infringement, or induced others to infringe the ‘702 Patent and, unless enjoined, will continue to infringe the ‘702 Patent by using the method(s) claimed in the ‘702 Patent or by contributing to or inducing others to use the claimed method(s), including at least the use of the patented methods on the following websites, without a license or permission from Plaintiff:

Defendant	**Infringing website**
Blockdot, Inc.	www.kewlbox.com; www.boxerjam.com
Careerbuilder, LLC	www.careerbuilder.com
CNET Networks, Inc.	www.gamespot.com; www.download.com; www.cnet.com
Digg, Inc.	www.digg.com
Ebaum’s World, Inc.	www.ebaumsworld.com
Jabez Networks, Inc.	www.rivals.com
The New York Times Company	www.nytimes.com
Washingtonpost.Newsweek Interactive Company, LLC	www.washingtonpost.com
The Weather Channel Interactive	www.weather.com

Answer: The Times denies the allegations of Paragraph 16 of the Complaint with respect to its own activities and is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 16 with respect to the other Defendants and therefore denies those allegations.

17. Plaintiff has been damaged by Defendants' infringement of the '702 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the '702 patent.

Answer: The Times denies the allegations of Paragraph 17 of the Complaint with respect to its own activities and is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 17 with respect to the other Defendants and therefore denies those allegations.

18. The Defendants are and have been willfully infringing one or more claims of the '702 patent.

Answer: The Times denies the allegations of Paragraph 18 of the Complaint with respect to its own activities and is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 18 with respect to the other Defendants and therefore denies those allegations.

19. Plaintiff is entitled to recover damages from the Defendants to compensate them for the infringement.

Answer: The Times denies that Plaintiff is entitled to recover damages from the Times and is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 19 with respect to the other Defendants and therefore denies those allegations.

20. Plaintiff demands trial by jury of all issues relating to this claim.

Answer: No response is required.

Second Claim for Patent Infringement (infringement of the '366 patent)

21. Plaintiff incorporates by reference each of the allegations in paragraphs 1-20 above and further alleges as follows:

Answer: The Times incorporates by reference each of the answers above and further answers as follows:

22. The United States Patent and Trademark Office issued the '366 patent on February 6, 2001. Attached as Exhibit B is what is believed to be a copy of the text of the '366 patent. Through assignment, Plaintiff is the owner of all right, title, and interest in the '366 patent, including all rights to pursue and collect damages for past infringements of the patent.

Answer: The Times admits that: (a) the United States Patent and Trademark Office issued the '366 patent on February 6, 2001; and (b) what is believed to be a copy of the text of the '366 patent is attached to the Complaint as Exhibit B. The Times is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations of Paragraph 22 of the Complaint and therefore denies those allegations.

23. Defendants, Blockdot, Inc., Careerbuilder, LLC, CNET Networks, Inc., Digg, Inc., Ebaum's World, Inc., Jabez Networks, Inc., The New York Times Company, The Washington Post Company, and the Weather Channel Interactive have infringed, contributed to the infringement, or induced others to infringe the '366 Patent and, unless enjoined, will continue to infringe the '366 Patent by using the method(s) claimed in the '366 Patent or by contributing to or inducing others to use the claimed method(s), including at least the use of the patented

methods on the following websites, without a license or permission from Plaintiff:

Defendant	Infringing website
Blockdot, Inc.	www.kewlbox.com; www.boxerjam.com
Careerbuilder, LLC	www.careerbuilder.com
CNET Networks, Inc.	www.gamespot.com; www.download.com; www.cnet.com
Digg, Inc.	www.digg.com
Ebaum's World, Inc.	www.ebaumsworld.com
Jabez Networks, Inc.	www.rivals.com
The New York Times Company	www.nytimes.com
Washingtonpost.Newsweek Interactive Company, LLC	www.washingtonpost.com
The Weather Channel Interactive	www.weather.com

Answer: The Times denies the allegations of Paragraph 23 of the Complaint with respect to its own activities and is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 23 with respect to the other Defendants and therefore denies those allegations.

24. Plaintiff has been damaged by Defendants' infringement of the '366 patent and will suffer additional irreparable damage and impairment of the value of its patent rights unless Defendants are enjoined from continuing to infringe the '366 patent.

Answer: The Times denies the allegations of Paragraph 24 of the Complaint with respect to its own activities and is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 24 with respect to the other Defendants and therefore denies those allegations.

25. The Defendants are and have been willfully infringing one or more claims of the '366 patent.

Answer: The Times denies the allegations of Paragraph 25 of the Complaint with respect to its own activities and is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 25 with respect to the other Defendants and therefore denies those allegations.

26. Plaintiff is entitled to recover damages from the Defendants to compensate them for the infringement.

Answer: The Times denies that Plaintiff is entitled to recover damages from the Times and is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 26 with respect to the other Defendants and therefore denies those allegations.

27. Plaintiff demands trial by jury of all issues relating to this claim.

Answer: No response is required.

AFFIRMATIVE DEFENSES

The Times asserts the following affirmative defenses:

1. With respect to the '702 patent, the Plaintiff cannot seek damages relating to the activities of the Times prior to June 20, 2007, since Plaintiff neither provided the Times with actual notice of its claim of infringement nor engaged in adequate marking.

2. With respect to the '366 patent, Plaintiff cannot seek damages relating to the activities of the Times prior to June 27, 2007, since Plaintiff neither provided the Times with actual notice of its claim of infringement nor engaged in adequate marking.

3. The Patents in suit are invalid under one or more provisions of Title 35 United States Code.

4. The Complaint fails to state a claim for which relief can be granted.

5. The Times does not infringe and has not infringed the Patents.

6. Plaintiff's claims for relief are barred in whole or in part by the equitable doctrine of Laches.

7. The Times reserves the right to add any additional defenses or counterclaims that discovery may reveal.

8. Plaintiff's claims of willful infringement against the Times fail to state a claim and further violate Fed. R. Civ. P. 11.

COUNTERCLAIMS FOR DECLARATORY JUDGMENT

COMES NOW The New York Times Company (the "Times") in the capacity of Counterclaim-Plaintiff and files these its Counterclaims against Beneficial Innovations, Inc. ("Beneficial") and in so doing alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over these Counterclaims for declaratory relief under Title 35 of the United States Code, 28 U.S.C. §§ 1331, 1338, 2201 and 2202.

2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(b). Additionally, venue is proper because Beneficial has consented to venue in the Eastern District of Texas by filing its claim for patent infringement in this Court.

3. Upon information and belief, and by virtue of the filing of the instant action, this Court has personal jurisdiction over Beneficial.

PARTIES

4. The Times is a corporation organized and existing under the laws of the State of New York and has its principal place of business at 620 Eighth Ave, New York, New York 10018.

5. Upon information and belief, Beneficial is a corporation organized under the laws of State of Nevada.

FACTS

6. Beneficial has alleged that it is the owner of the patents whose numbers, titles and issue dates are set forth below (the "Patents").

Patent Number	Entitled	Date of Issuance
6,712,702	Method and System for Playing Games on a Network	Mar. 30, 2004
6,183,366	Network Gaming System	Feb. 6, 2001

7. Beneficial has sued the Times for infringement of the Patents, alleging that the Times has "infringed, contributed to the infringement, or induced others to infringe the '702 Patent ... [and] infringed, contributed to the infringement, or induced others to infringe the '366 Patent"

8. As a result, there exists an actual and continuing controversy between the Times and Beneficial.

COUNT I
DECLARATORY JUDGMENT OF
NON-INFRINGEMENT UNDER 35 U.S.C. § 271 (a)-(c)

9. The Times repeats and realleges the allegations of paragraphs 1-8 as if fully set forth herein.

10. The Times does not infringe any valid claim of the Patents.

11. The Times does not induce others to infringe or contribute to the infringement of any valid claims of the Patents.

COUNT II
DECLARATORY JUDGMENT OF
PATENT INVALIDITY

12. The Times repeats and realleges the allegations of paragraphs 1-11 as if fully set forth herein.

13. The claims of the Patents are invalid under 35 U.S.C. §§ 101, 102, 103 and/or 112.

WHEREFORE, The Times respectfully requests that this Court enter the following relief:

a. a declaratory judgment that the Patents are invalid;

b. a declaratory judgment that The Times is not liable for infringement of any of the asserted claims of the Patents under 35 U.S.C. § 271 (a)-(c);

c. a declaration that this case is exceptional under 35 U.S.C. § 285;

d. a judgment in favor of the Times for its attorneys fees, costs, and expenses in this action; and

e. a judgment in favor of the Times for such further relief as this Court may deem just and proper.

Dated: September 2812, 2007 Respectfully submitted,

By:/s/ Sam Baxter
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon counsel of record via CM/ECF on September 28, 2007.

__/s/ Sam Baxter___________

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